

EXHIBIT A

FILED

DEC 12 2014

**KIMBERLY A. ALLEN
GRANT COUNTY CLERK**

**IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR THE COUNTY OF GRANT**

LUCY FITTERER,

Plaintiff,

v.

**STATE OF WASHINGTON,
EMPLOYMENT SECURITY DEPT.,**

Defendant.

No. 13-2-00251-1

**STIPULATION AND CONSENT
FOR ORDER DISMISSING STATE
LAW CAUSE OF ACTION AND
TRANSFERRING VENUE TO
FEDERAL DISTRICT COURT FOR
EASTERN DISTRICT OF
WASHINGTON**

I. STIPULATION AND CONSENT

Come now the parties hereto and jointly, through their respective counsel, stipulate and consent that Plaintiff's state law cause of action pursuant to the Washington Family Leave Act, RCW 49.78.300 be dismissed without prejudice pursuant to CR 41 (a)(1)(A). Further, the parties hereto jointly, through their respective counsel, stipulate and consent that Plaintiff's cause of action for violation of the Family and Medical Leave Act (FMLA), 29 U.S.C. §2617, be transferred to the Federal District Court for the Eastern District of Washington.

**STIPULATION AND ORDER FOR
CR 41 DISMISSAL AND CHANGE
OF VENUE**

c5:fitterer-l.emp\stipaorderfdiscov

LACY KANE, P.S.
300 Eastmont Avenue
East Wenatchee, WA 98802
(509) 884-9541 ♦ Fax: (509) 884-4805

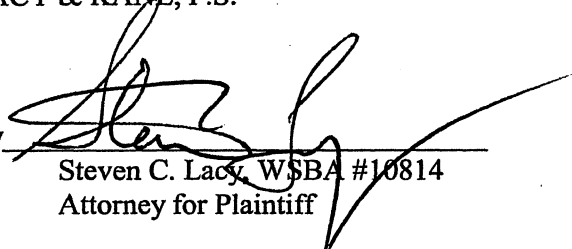


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So stipulated, this 9th day of December, 2014.

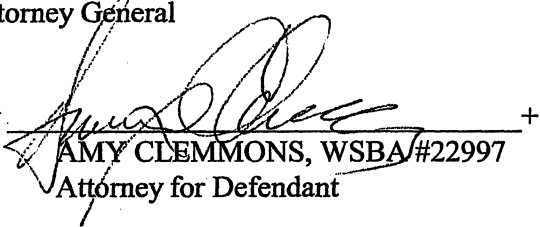
LACY & KANE, P.S.

By


Steven C. Lacy, WSBA #10814
Attorney for Plaintiff

ROBERT W. FERGUSON
Attorney General

By


AMY CLEMMONS, WSBA #22997
Attorney for Defendant

II. ORDER

Pursuant to the above stipulation and Consent of counsel for the parties, IT IS HEREBY ORDERED that Plaintiff's state law cause of action pursuant to the Washington Family Leave Act, RCW 49.78.300 is dismissed without prejudice pursuant to CR 41 (a)(1)(A). Further, IT IS HEREBY ORDERED that Plaintiff's cause of action for violation of the Family and Medical Leave Act (FMLA), 29 U.S.C. §2617, shall be and is hereby transferred to the Federal District Court for the Eastern District of Washington.

DATED this 11 day of December, 2014.

EVAN E. SPERLINE

By

SUPERIOR COURT JUDGE

STIPULATION AND ORDER FOR
CR 41 DISMISSAL AND CHANGE
OF VENUE

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300 Eastmont Avenue
East Wenatchee, WA 98802
(509) 884-9541 ♦ Fax: (509) 884-4805



KIMBERLY A. ALLEN
GRANT COUNTY CLERK

SUPERIOR COURT OF WASHINGTON FOR GRANT COUNTY

LUCY FITTERER,

Plaintiff,

V.

STATE OF WASHINGTON,
EMPLOYMENT SECURITY
DEPARTMENT,

Defendants.

NO. 113 - 2 - 00251 - 1

SUMMONS

**TO THE DEFENDANT: STATE OF WASHINGTON EMPLOYMENT
SECURITY DEPARTMENT**

A lawsuit has been started against you in the above-entitled court by LUCY FITTERER, Plaintiff. Plaintiff's claim is stated in the written complaint, a copy of which is served upon you with this summons.

In order to defend against this lawsuit, you must respond to the complaint by stating your defense in writing, and serve a copy upon the person signing this summons within 20 days after the service of this summons, excluding the day of service, or a default judgment

SUMMONS -1

LAW OFFICE OF ROBERT M. BOGGS
917 Triple Crown Way, Ste. 100
Yakima, Washington 98908
Telephone (509) 469-8221
Facsimile (509) 469-9026

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1 may be entered against you without notice. A default judgment is one where plaintiffs are
2 entitled to what they ask for because you have not responded. If you serve a notice of
3 appearance on the undersigned person you are entitled to notice before a default judgment
4 may be entered.
5

6 You may demand that plaintiffs file this lawsuit with the court. If you do so, the
7 demand must be in writing and must be served upon plaintiffs. Within 14 days after you
8 serve the demand, plaintiffs must file this lawsuit with the court, or the service on you of
9 this summons and complaint will be void.
10
11

12 If you wish to seek the advice of an attorney in this matter, you should do so
13 promptly so that your written response, if any, may be served on time.
14

15 This summons is issued pursuant to Rule 4 of the Superior Court Civil Rules of the
16 State of Washington.
17

18 **DATED** this 11th day of February, 2013.
19

20 **LAW OFFICE OF ROBERT M. BOGGS**
21

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23
24 *Robert M. Boggs*
25 ROBERT M. BOGGS, WSBA No. 8664
26 Attorney for Plaintiff
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SUMMONS -2

LAW OFFICE OF ROBERT M. BOGGS
917 Triple Crown Way, Ste. 100
Yakima, Washington 98908
Telephone (509) 469-8221
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FILED

FEB 26 2013

KIMBERLY A. ALLEN
GRANT COUNTY CLERK

SUPERIOR COURT OF WASHINGTON FOR GRANT COUNTY

LUCY FITTERER

Plaintiff,

vs.

STATE OF WASHINGTON,
EMPLOYMENT SECURITY
DEPARTMENT,

Defendant.

)

) No. 13 - 2 - 00251 - 1

)

)

) **COMPLAINT FOR**
) **INTERFERENCE WITH STATE**
) **AND FEDERAL FAMILY**
) **MEDICAL LEAVE ACTS**

)

I. PARTIES, JURISDICTION, VENUE

1. Plaintiff Lucy Fitterer is a resident of Grant County.
2. Defendant Employment Security Department is an agency of the State of Washington.
3. Venue is proper in the Superior Court of Washington for Grant County.

II. FACTS GIVING RISE TO LIABILITY

4. The Plaintiff was employed by the Defendant from December 1999 until May 5, 2011.
5. That the Plaintiff suffered from chronic migraine headaches. That she requested Family Medical Leave on an intermittent basis due to the headaches and stress related symptoms. The request was supported by a certification from her doctor

1 stating that she needed Family Medical Leave. That the Defendant approved her
 2 request for intermittent use of Family Medical Leave from July 6, 2010 to July
 3 6, 2011.

- 4 6. On January 10, 2011 the Plaintiff made a request to use the preapproved family
 5 medical leave from January 31, 2011 to February 14, 2011. The request was
 6 supported by certification from her doctor stating that she needed to take the
 7 leave. The leave was approved by the Defendant.
 8 7. That on May 5, 2011 the Plaintiff was terminated from employment by the
 9 Defendant. The Defendant gave several reasons for the termination. One of the
 10 reasons was that she used Family Medical Leave from January 31, 2011 to
 11 February 14, 2011 against the Defendant's policy despite the fact that the
 12 Defendant approved the leave.
 13 8. That the Plaintiff did not violate the Defendant's policy and more importantly
 14 she fulfilled the requirements of the statutes which take precedence over the
 15 Defendant's policies.
 16 9. That after the leave was approved and the Plaintiff was absent on that leave, the
 17 Defendant unlawfully contacted her doctor directly. That if the Defendant
 18 wanted to challenge the reasons for the leave request it would be necessary to
 19 obtain a second opinion which they did not.
 20 10. That the Defendant interfered with the Plaintiff's right to Family Medical Leave
 21 by using the Plaintiff's use of Family Medical Leave as one of the reasons for
 22 termination.
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26 III. CAUSES OF ACTION

- 27
 28 11. That the above alleged facts constitute a violation of RCW 49.78.300(1)(a) and
 29 29 U.S.C.A. §2615(a)(1).
 30

31 IV. PRAYER FOR RELIEF

1 **WHEREFORE**, Plaintiff prays for judgment against the Defendant in such
2 amounts as to be proven at trial, including but not limited to, economic and non-
3 economic damages suffered by Plaintiff, reasonable attorney fees, costs and expenses
4 permitted by law and for such other and further relief as the court deems just and
5 equitable.
6

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8
9 DATED this 17th day of February, 2013.
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11 **LAW OFFICE OF ROBERT M. BOGGS**
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14 S/ Robert M. Boggs
15 ROBERT M. BOGGS, WSBA No. 8664
16 Attorney for Plaintiff
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RECEIVED

OCT 01 2014

LACY KANE, P.S.

STATE OF WASHINGTON
GRANT COUNTY SUPERIOR COURT

LUCY FITTERER,

Plaintiff,

NO. 13-2-00251-1

v.

DEMAND FOR TWELVE-PERSON
JURY

STATE OF WASHINGTON,
EMPLOYMENT SECURITY
DEPARTMENT,

Defendants.

(Clerk's Action Required)

TO: LUCY FITTERER, Plaintiff

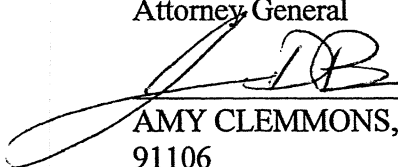
TO: STEVEN LACY, Plaintiff's Attorney

TO: CLERK OF THE ABOVE-ENTITLED COURT

PLEASE TAKE NOTICE That the STATE OF WASHINGTON, EMPLOYMENT
SECURITY DEPARTMENT hereby elects to have the issues of fact in the above cause tried by a
twelve-person jury.

DATED this 30th day of September, 2014.

ROBERT W. FERGUSON
Attorney General

 WSBA # 39366 FOR
AMY CLEMMONS, WSBA No. 22997; OID #
91106

Assistant Attorney General
Attorneys for Defendants State of Washington,
Employment Security Department

DEMAND FOR TWELVE-PERSON
JURY

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ATTORNEY GENERAL OF WASHINGTON
West 1116 Riverside Avenue
Spokane, WA 99201-1194
(509) 456-3123

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PROOF OF SERVICE

I certify that I served a copy of the foregoing document on all parties or their counsel of record on the date below as follows:

☒ US Mail Postage Prepaid to: Lacy, Steven C., #10814
300 Eastmont Ave
East Wenatchee, WA 98802

☐ FEDEX Overnight to:

☐ Via Facsimile to:

I certify under penalty of perjury under the laws of the state of Washington that the foregoing is true and correct. *gr*

DATED this 30 day of September, 2014, at Spokane, Washington.

Marki Stebbins

MARKI STEBBINS
Legal Assistant II